IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1799 OF 2007

Shri Balasaheb Tukaram Deshmukh ..Petitioner

Vs.

Smt. Jyoti Balasaheb Deshmukh and ors. ..Respondents

Mr. Amol Patankar i/by Mr. S.D. Dharmadhikari for petitioner.
Mr. A.S. Shitole, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : October 29, 2007.

P.C.:

1. Heard the learned counsel for the petitioner-husband. Respondent No.2-Jyoti and the petitioner were married on 28/11/1992 and in the very next year, the present respondent no.2 - son was born from the said wedlock. The petitioner is a Class-I Officer int he Sales Tax Department and the respondent no.1 filed Criminal Misc. Application No. 116 of 2001 before the learned JMFC at Nashik under Section 125 of Cr.P.C. and prayed for maintenance. The same application came to be allowed by the learned JMFC as

per his Judgment and Order dated 27/2/2006 and the husband has been directed to pay an amount of Rs.1500/- per month to respondent no.1 and Rs.1200/- per month to respondent no.2. The said order has been confirmed by the learned Ad-hoc Additional Sessions Judge at Nashik by dismissing Criminal Revision Application No. 201 of 2006.

2. The learned counsel for the petitioner has also pointed out that below the application at Exh.4 in H.M.P. No. 84 of 2002 the learned Joint Civil Judge, Senior Division, Nashik passed an order on 19/8/2002 and directed to pay interim maintenance at the rate of Rs.600/- per month to the present respondent no.1. Thus, as of now the respondent no.1 is entitled to receive an amount of Rs.2100/- per month and the respondent no.2 an amount of Rs.1200/- per month from the petitioner.

3. Before the learned JMFC, an officer of the Bank was examined as DW 2 and this officer by name Shri Motilal Sangale stated before the trial court that Account No. 110481 with Nashik District Central

Co-operative Bank, Agra Road Branch was in her name and the extract dated 8/7/2000 indicates that there was a balance of Rs.1,41,794/- in the said account. However, on the same day i.e. on 8/7/2000 an amount of Rs.1,41,000/- came to be withdrawn. On a specific question asked to him in his cross-examination he admitted that there was no documentary evidence to show that the applicant-wife herself had withdrawn the amount of Rs.1,41,000/- on 8/7/2000. The trial court also considered the fact that the husband is employed as a Class-I Officer i.e. Sales Tax Commissioner and drawing a salary of more than Rs.20,000/- per month. In addition, he is a landlord and his agricultural income was taken to be Rs.3,00,000/- per annum. As per the trial court the applicant-wife was being harassed and ill-treated for the demand of Rs.4,00,000/- from her parents and, therefore, on 11/9/1999 she was beaten up and the husband had disappeared within 2-3 days. She was treated by a doctor on 15/9/1999 and she went to her parental home.

4. All these aspects have been duly considered by the revision court as well and the learned Ad-hoc

Additional Sessions Judge has confirmed the order passed by the learned JMFC. No case is made out to cause interference with the concurrent findings recorded by both the courts below.

5. Hence, the petition is rejected summarily.

(B.H. Marlapalle,J.)